

CALIFORNIA MEDICAL ASSISTANCE COMMISSION

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**CALIFORNIA MEDICAL ASSISTANCE COMMISSION**

770 L Street, Suite 1000

Sacramento, CA

Minutes of Meeting

August 12, 2004

COMMISSIONERS PRESENT

Nancy E. McFadden, Chair
Thomas Calderon
Teresa P. Hughes
Lynn Schenk
Michael R. Yamaki

CMAC STAFF PRESENT

J. Keith Berger, Executive Director
Enid Barnes
Theresa Bueno
Paul Cerles
Denise DeTrano
Holland Golec
Ina Pewitt
Mervin Tamai
Donald Wooten, Ph.D.

COMMISSIONERS ABSENT

Diane M. Griffiths
Vicki Marti

EX-OFFICIO MEMBERS PRESENT

Vern Hines, Department of Finance
Benjamin Thomas, Department of Health Services

I. Call to Order

The August 12, 2004 open session meeting of the California Medical Assistance Commission (CMAC) was called to order by Chair Nancy E. McFadden. A quorum was present.

II. Approval of Minutes

There were no meeting minutes available for approval at this meeting.

III. Executive Director's Report

The Executive Director, Keith Berger, indicated that there were no new requests from hospitals or health plans to appear before the Commission in closed session at this time.

Mr. Berger informed the Commission that the California Health and Human Services Agency (CHHSA) issued a press release at the beginning of last week regarding Medi-Cal Redesign indicating that they are continuing to work with the key stakeholders on a number of issues. Their objective had been to have a proposal to the Legislature by August 2. The Agency is continuing to work on these issues and is now targeting the Governor's budget in January.

Mr. Thomas stated that he is unable to comment other than to say that the process is being delayed until January, and that hospital financing is a major cornerstone of the whole approach.

Mr. Berger noted that the California Performance Review (CPR) had issued a 2,500-plus page report with many recommendations. There are proposals that will be discussed in the upcoming months, and it is his impression that this is the beginning of a long process. There are currently five public hearings scheduled around the state, with the first one being held tomorrow in the San Bernardino/Riverside area. When the hearings are complete, the report and hearing input will go to the Little Hoover Commission. After it is reviewed, the Little Hoover Commission will make recommendations to the Governor and the Legislature for consideration and discussion. Many of those recommended changes will require statutory changes such as the recommendation that CMAC be abolished and the negotiation functions be incorporated into a new Department of Health and Human Services (DHHS).

Commissioner Calderon remarked that if the CPR report as a whole goes to the ballot, the single-issue criteria for an initiative must be addressed, which will be difficult because the report has so many different issues. He questioned how this format could fully apprise the voters that a particular commission that provides a particular service should be abolished. He further stated that, in his opinion, the Legislature is not going to accept the many different issues format of the CPR report.

In response to Commissioner Schenk's question, Mr. Berger indicated that CHHSA Secretary Kimberly Belshé has put together a number of workgroups to review (from the agency perspective) the Health and Human Services proposals in the CPR report. Mr. Berger further reported that the lead of the Health Purchasing workgroup had called him to schedule a meeting for next week.

Commissioner Calderon said that CMAC exists in part as a hearing body, so that when a negotiation takes place with CMAC staff, there is a court of last resort where the hospitals and plans can appear and make a case for their request. If CMAC is to be

rolled into DHHS, it is likely to become a bureaucratic process with no independent appeal available.

Commissioner Calderon also remarked that Commissioners come and go and that it would be a crime if the staff at CMAC were to be dispersed or eliminated. The CMAC staff has the institutional knowledge, history, and experience in Medi-Cal contract negotiations. The hard work that CMAC does needs to be recognized, and it is the stakeholders that benefit from the results of that work.

Mr. Berger thanked Commissioner Calderon and replied that the CMAC employees do have extensive history, knowledge, and skills required to do the type of negotiations that are vital to the Medi-Cal Program.

Benjamin Thomas, Department of Health Services, stated that the Medical Care Services Program is not going to comment on CMAC in their CPR review. However, they are commenting on the recommendation relating to how hospitals qualify for Disproportionate Share Hospital Program (DSH) payments. This is an important issue that CMAC also needs to review.

Mr. Berger responded that CMAC will have an opportunity to weigh in on the many issues brought forth by the CPR report.

Mr. Berger informed the Commissioners that a budget was passed and from CMAC's perspective, on the operational side, it was approved as submitted. This included the re-establishment of the Supervising Negotiator position, which Mr. Berger is moving forward to fill as quickly as possible.

Mr. Berger indicated that there are some challenges living within CMAC's operational budget, even though the budget was approved as submitted, because it does reflect the cuts CMAC has had to implement over the last three or four years. Staff has been very good at working to find ways to reduce costs and Mr. Berger is optimistic that CMAC will be able to continue doing so in the upcoming year.

On the Medi-Cal Managed Care side, the budget included a three percent rate increase for the County Organized Health Systems (COHS). CMAC is working with DHS to determine what funds might be available for other CMAC negotiated Medi-Cal Managed Care Plans as well, such as those Medi-Cal funds related to the court-ordered settlement on hospital outpatient rates and other provider related adjustments. Currently, CMAC is doing a lot of work in the managed care area on retroactive rate adjustments for various requirements.

On the Medi-Cal Selective Provider Contracting Program (SPCP) side, the budget trailer bill has the same language as it did last year--the legislative intent that CMAC freeze SPCP contract rates at the FY 03-04 level. However, Mr. Berger said there may be a little more flexibility in the upcoming year than there was last year.

CMAC will continue to work with the DHS budget office to better understand the parameters. Mr. Berger noted that there is language in the budget trailer bill that reduces non-SPCP hospital rates by 10 percent on an interim basis. At cost settlement, payments to non-contracted hospitals will be limited to the FY 04/05 allowable costs or their hospital year ending in 2003 (FY 02/03) audited cost per day times their FY 04/05 number of days, whichever is lower. This is one of the efforts the Administration is initiating to address some of the non-SPCP hospital annual cost increases.

Mr. Berger informed the Commissioners that CMAC did not notice any contract amendments to the Commissioners for the August 26 meeting. Although many are in process, these amendments will not be ready until September or later.

Chair McFadden asked the Commissioners if there were any objections to canceling the Commission meeting scheduled for August 26. The Commissioners had no objections and all unanimously agreed to cancel the August 26 CMAC meeting.

Mr. Berger informed the Commission that CMAC staff has started working on the next round of SB 1255 amendments. Staff is working on finalizing a schedule, and it is anticipated that letters will be mailed to eligible hospitals by the first week of September, inviting them to participate in Round 17A of SB 1255. CMAC staff is targeting the SB 1255 amendments for action in late October, with payments going out to the hospitals before the end of the year.

In concluding his report, the Executive Director stated that while there are no formal requests from hospitals or health plans to appear before the Commission in September, there is a request from the California Healthcare Association (CHA) to appear before the Commission in open session on September 23. Mr. Berger stated he would work with CHA to finalize that date.

IV. Medi-Cal Managed Care Activities

The Executive Director indicated that CMAC staff is making progress with County Organized Health Systems (COHS) and Geographic Managed Care plan (GMC) amendments on a variety of issues. CMAC staff plans to have over 20 amendments finalized and before the Commission for action in September. Those amendments will be primarily to implement some retroactive rate adjustments, both positive and negative. The development of the financial parameters within which the Commission can negotiate has been delayed due to staffing problems in the actuarial unit at DHS. CMAC is now at a point where it can move forward in a number of areas such as the Breast and Cervical Cancer Treatment Program (BCCTP), where Managed Care Plans have been receiving interim rates for quite some time, and making adjustments related to the court-ordered settlement on outpatient rates.

V. Approval of CMAC's Annual Report to the Legislature 2004

Mr. Berger indicated that the Commissioners had received a draft of the report at the last Commission meeting and that there had not been any subsequent changes to the draft. The final report has been noticed for approval at this meeting. Commissioner Calderon made the motion to approve. Commissioner Yamaki seconded the motion and the Commission voted unanimously to approve and submit to the Legislature the Annual Report to the Legislature 2004.

VI. HFPA 411 Access Issues

Mr. Berger reported to the Commission that Chair McFadden had written a letter responding to the communications that CMAC had received from the hospitals relating to HFPA 411. The initial response from the hospitals to the Chair's letter has been included in the Commissioners' binders and distributed to the public. CMAC is working with DHS to respond to the CMS inquiry, and staff will keep the Commissioners updated.

VII. New Business/Public Comments/Adjournment

Mike Arnold, representing the California Children's Hospital Association (CCHA), announced that CCHA plans to respond to Secretary Kimberly Belshé with respect to the CPR report.

CCHA has found two issues for which it will provide a response. One is regarding the DSH program. Mr. Arnold said that the CPR report states that no hospital will be eligible for DSH funding unless the hospital provides certain core services such as maternity services. Most children's hospitals do not provide maternity services. Children's hospitals do provide a number of other critical services for the majority of the Medi-Cal pediatric beneficiaries, and should continue to receive their DSH funds. The second issue, and perhaps the most important, is the recommendation that CMAC be eliminated. CCHA will be voicing its opinion very strongly on both matters.

Mr. Arnold commented that CMAC is the only body in the financing system for the delivery of healthcare services in California that has the ability to step back, look at the landscape, and make decisions about fairness and access. The Commission has the ability to level the field a bit by the actions the Commission takes. On a number of occasions, California hospitals have appeared before the Commission to bring to the Commission's attention their experience with adverse selection, outliers, and other unique situations to which the Commission has been able to respond. CCHA will be suggesting that the aspect of the CPR report eliminating this forum for hospitals not be carried forward.

Chair McFadden thanked Mr. Arnold for his comments and stated that one of the things that is difficult about a process and a report like the CPR report is that it is easy for people to focus on things like "The Commission" and the Commissioners' salaries and forget that the real issues are the functions of the body and how well it succeeds at its intended purpose. Organizations such as CCHA and other stakeholders will be able to focus on the issues that are important and what really is at stake.

Commissioner Hughes indicated that when she first came on the Commission she was so thrilled at the fact that the Commission had a bipartisan concern for children's hospitals. She further stated that the children of the state are the children of the future and that she is very, very proud of the work the Commission has done over the years.

Mr. Berger took a moment to note that Ben Thomas was retiring from state service and that this was his last CMAC meeting. Mr. Berger said he wanted to publicly thank Mr. Thomas for his years as an Ex-Officio member and for the operational support provided to the CMAC hospital contracting program by him and his staff. Mr. Berger emphasized that CMAC staff is going to miss Mr. Thomas, but know that he is moving on to a very enjoyable phase in his life.

Chair McFadden extended her appreciation to Mr. Thomas for his hard work, and remarked that he will be sorely missed by all.

There being no further new business and no additional comments from the public, Chair Nancy E. McFadden recessed the open session. Chair McFadden opened the closed session, and after closed session items were addressed, adjourned the closed session, at which time the Commission reconvened in open session. Chair McFadden announced that the Commission had taken action on hospital amendments in closed session.